

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT A LIQUOR LICENSE APPLICANT BE A RESIDENT OF MONTANA; PROVIDING THAT A LIQUOR LICENSE APPLICANT MAY NOT HAVE BEEN CONVICTED OF A FELONY WITHIN 5 YEARS OF THE DATE OF APPLICATION; PROHIBITING PERSONS ON PROBATION OR PAROLE OR UNDER DEFERRED PROSECUTION FROM APPLYING FOR A LIQUOR LICENSE; CLARIFYING OWNERSHIP REQUIREMENTS FOR CORPORATE LICENSE OWNERS; AND AMENDING SECTION 16-4-401, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-401, MCA, is amended to read:

"16-4-401. License as privilege -- criteria for decision on application. (1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in subsection (6), in the case of a license that permits on-premises consumption, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant will not possess an ownership interest in more than one establishment licensed under this chapter for all-beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

(iv) the applicant ~~is a resident of the state and is qualified to vote in a state election~~ has not been convicted of a felony offense within 5 years of the date of the application or is not on probation or parole or under deferred prosecution for committing a felony offense;

(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

(vi) the applicant is not under 19 years of age; and

(b) in the case of a corporate applicant:

~~(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (2)(a)(iv);~~

~~—— (ii)(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a);~~

~~(iii)(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);~~

~~(iv)(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(b)(iv) (2)(b)(iii) does not apply to a shareholder of a corporation who owns less than 10% of the outstanding stock in that corporation. If all shareholders of a corporation own less than 10% of the outstanding stock in that corporation, subsection (2)(b)(i) applies.~~

~~(v)(iv) the corporation is authorized to do business in Montana; and~~

~~(vi)(v) in the case of a corporation not listed on a national stock exchange, each owner of stock meets the requirements of subsections (2)(a)(i) and (2)(a)(ii); and~~

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (2)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (2)(b).

(3) In the case of a license that permits only off-premises consumption, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

~~(i) the applicant will not possess an ownership interest in more than one establishment licensed under this chapter for all beverages sales;~~

~~—— (ii)(i) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;~~

~~(iii)~~(ii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

~~(iv)~~(iii) the applicant has not been convicted of a felony offense within 5 years of the date of the application or, ~~if the applicant has been convicted of a felony, the applicant's rights have been restored~~ is not on probation or parole or under deferred prosecution for committing a felony offense;

~~(v)~~(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

~~(vi)~~(v) the applicant is not under 19 years of age; and

(b) in the case of a corporate applicant:

~~(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (3)(a)(iv);~~

~~———(ii)~~(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a); and

~~(iii)~~(ii) the corporation is authorized to do business in Montana; and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (3)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (3)(b).

(4) In the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic beverage, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail alcoholic beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant has not been convicted of a felony offense within 5 years of the date of the application or, ~~if the applicant has been convicted of a felony, rights have been restored~~ is not on probation or parole or under deferred prosecution for committing a felony offense;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments;

(v) the applicant is not under 19 years of age; and

(vi) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage; ~~and~~

(b) in the case of a corporate applicant:

~~(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (4)(a)(iii);~~

~~—— (ii)(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (4)(a);~~

~~(iii)(ii) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage; and~~

~~(iv)(iii) the corporation is authorized to do business in Montana; and~~

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (4)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (4)(b).

(5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b) apply separately to each class of stock.

(6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302."

NEW SECTION. Section 2. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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